



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/637,894	04/25/96	TASH	G P-2127-40
EXAMINER			

F1M1/0328

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ART UNIT	PAPER NUMBER
FETSLIGA-R	5

3105

DATE MAILED: 03/28/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on April 25, 1996

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-12 is/are pending in the application.

Of the above, claim(s) none is/are withdrawn from consideration.

☐ Claim(s) is/are allowed.

☒ Claim(s) 1-12 is/are rejected.

☐ Claim(s) is/are objected to.

☐ Claim(s) are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number)

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received:

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s).

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948 Substitute

☐ Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

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1. The disclosure is objected to because of the following informalities: page 6, line 14, "modable" apparently should be --moldable--, line 17, "external" apparently should be --internal--; and page 8, line 26, "32" and "40" apparently should be --40-- and --32--, respectively. Appropriate correction is required.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. § 1.75(d)(1) and M.P.E.P. § 608.01(o). Correction of the following is required: Proper antecedent basis for the "integral" handle set forth in claim 5 could not be found in the specification.

3. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "integral" handle set forth in claim 5 must be shown or the feature cancelled from the claim. No new matter should be entered.

Applicant is required to submit a proposed drawing correction in response to this Office Action. Any proposal by the applicant for amendment of the drawings to cure defects must consist of two parts:

a) A separate letter to the Draftsman in accordance with MPEP § 608.02(r); and

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b) A print or pen-and-ink sketch showing changes in *red ink* in accordance with MPEP § 608.02(v).

IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with proposed corrections shown in red ink is required in response to this Office Action, and *may not be deferred*.

4. The claim hierarchy does not appear to be in accordance with MPEP 608.01(m).

5. Claims 1 and 10 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is unclear as to the limitation imparted by the language "improved" on line 1. Claim 10 similarly includes the noted indefiniteness.

Claim 1 lacks an associated function for the "sealing means" on line 12.

Applicant is respectfully requested to carefully review the claims for further indefiniteness and correct the same.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or

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on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 10 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheiten in view of Gross.

The Cheiten reference discloses a plunger comprising: a handle 20; and a pleated bellows 12,14,15. Therefore, Cheiten teaches all claimed elements except for the provision of seals.

Although the guide portion (28) of the Cheiten plunger does not include seals, as claimed, attention is directed to the Gross reference which discloses an analogous plunger which further includes a guide portion 32 having seals 36-38. Therefore, in consideration of Gross, it would have been obvious to one of ordinary skill in the art to associate seals with the Cheiten plunger in order to facilitate drain engagement.

8. Claims 1-5 and 10-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheiten in view of Gross as applied to claim 10 above, and further in view of Tash.

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Re claims 1 and 10, Tash teaches a plunger having pleated bellows more like that disclosed by applicant. Re claims 4, 5 and 12, Tash further teaches constructing a plunger handle of plastic and integral with a bellows.

9. Claims 6-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheiten, Gross and Tash as applied to claims 1 and 5 above, and further in view of Lacey et al.

Although the guide portion of the Cheiten plunger (Gross, at 34) is not vertical, as claimed, attention is directed to the Lacey et al. (Lacey) reference which discloses an analogous plunger which further includes a vertical guide portion 23.

Therefore, in consideration of Lacey, it would have been obvious to one of ordinary skill in the art to associate a vertical guide portion with the Cheiten plunger in order to facilitate drain engagement. Re claim 7, the choice of seal size would appear an obvious choice to be made depending on desired drain engagement. Re claim 9, the seals of the Gross plunger are flexible to facilitate drain engagement. To construct the seals to be less flexible would have been obvious in order to facilitate drain engagement with a particular type of drain.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

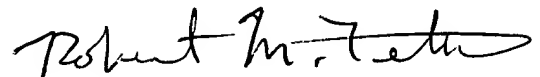
The Locke reference discloses a plunger having features in common with the instant invention.

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11. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number (703) 308-1506.



ROBERT M. FETSUGA
PRIMARY EXAMINER
ART UNIT 3105

rmf
March 26, 1997